

CITY COMMISSION  
AGENDA  
**December 7, 2011**  
**@ 5:30 P.M.**  
**TOWN HALL, CITY HALL**  
118 E. Tyler Street  
Harlingen, Texas

Notice is hereby given that the above governmental body will hold a Regular Meeting on **Wednesday, December 7, 2011 at 5:30 p.m.** in the Harlingen Community Center located at 201 E. Madison Street, Harlingen, Texas.

**City of Harlingen meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary's office at (956) 216-5001 or write Post Office Box 2207, Harlingen, Texas 78550 at least 48 hours in advance of the meeting.**

Invocation/Mayor Chris Boswell

Pledge of Allegiance/Welcome

- 1) Citizen Communication
- 2) Approval of Minutes – Regular Meeting of November 21, 2011 Attachment

<b>CONSENT AGENDA</b>
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**The following items are of a routine or administrative nature. The Council has been furnished with background material on each item and/or it has been discussed at a previous meeting. All items will be acted upon by one vote, without being discussed separately, unless requested by a Commission member. Items withdrawn from the Consent Agenda for individual consideration in their normal sequence will be heard after the remainder of the Consent Agenda has been acted upon.**

- 3a) Second and final reading to approve an ordinance authorizing the issuance of City of Harlingen, Texas General Obligation Refunding Bonds, Series 2011, approving and authorizing the execution of an escrow agreement, a paying agent/registrar agreement, a purchase contract and other instruments and procedures related thereto, delegating authority to Mayor or the City Manager to select outstanding bonds to be refunded and approve all final terms of the bonds, approving an official statement, and calling certain bonds for redemption. Attachment (***Finance Department***)

- b) Second and final reading to approve an ordinance amending the City of Harlingen's Budget for Fiscal Year 2011-12. Attachment (**Finance Department**)
- c) Consider and take action to approve refunds of property taxes to Harlingen Venture No. Two, LP c/o Law Office of Michael R. Boling, Account #18-4093-0010-0040-00 and Account #18-4093-0010-0060-00 in the amounts of \$1,672.21 and \$1,287.90 for a total adjustment of \$2,960.11 due to a change of value for the Year 2010 as per agreed judgment. Attachment (**Finance Department**)



- 4) Acknowledgement of: (1) Verdict of Guilty-Punishment by Court/Jail, a conviction of a conflict of interest offense in ***State of Texas v. Kori J. Marra***, Cause No. 11-CCR-1602-C, Cameron County Court at Law No. 3; and (2) Harlingen City Charter Article IV, Subsection 2, which mandates that a City Commissioner (Kori J. Marra) shall immediately forfeit their office upon conviction of a conflict of interest statute under Texas Local Government Code Subsection 171.001-171.008, as amended. Attachment (**City Attorney**)
- 5) Public hearing and presentation regarding the Draft FY 10-11 Consolidated Annual Performance and Evaluation Report (CAPER). Attachment (**Community Development**)
- 6) Consider an ordinance on first reading to amend the Specific Use Permit issued under Ordinance No. 90-74 for a wrecking and salvage yard from 8.67 acres to 6.41±/- acres out of Block 7, F.Z. Bishop Campbell Lands Subdivision and allow a specific use permit to allow a recycling center (ferrous metal) and wrecking and salvage yard in a "LI" District located on Roosevelt Road west of Expressway 77, bearing a legal description of 1.0 acres out of Block 8, and 2.263±/- acres out of an 8.94 acre tract out of Block 7, F.Z. Bishop Campbell Lands Subdivision. Applicant: Craig Miller. Attachment (**Planning and Development**)
  - a) Public Hearing
  - b) Consider and take action to approve an ordinance on first reading for the above mentioned Specific Use Permit.
- 7) Consider an ordinance on first reading to abandon a 60 ft. road right-of-way described as a 0.127 acre tract of land more or less, being 60 ft. wide road-of-

way dedicated on the Caldwell Subdivision located on the west side of Idaho Street south of Expressway 77. Applicant Victor Banuelos, c/o of Armando and Lucia Regaldo. Attachment ***(Planning and Development)***

- a) Public Hearing
  - b) Consider and take action to approve an ordinance on first reading for the above mentioned 60 ft. road right-of-way abandonment.
- 8) Consider an ordinance on first reading to rezone from Residential, Single Family (R-1) District to Residential, Duplex (R-2) District for Lot 12, Block 2, Colonia Guadalupe Subdivision located at 921 N. B Street. Applicant: Armando Trevino. Attachment ***(Planning and Development)***
- a) Public Hearing
  - b) Consider and take action to approve an ordinance on first reading for the above mentioned rezone request.
- 9) Consider an ordinance on first reading to amend the City of Harlingen Zoning Ordinance, Section 11, Landscaping Regulations, and Section 12, Sign Regulations. Applicant: City of Harlingen. Attachment ***(Planning and Development)***
- a) Public Hearing
  - b) Consider and take action to approve an ordinance on first reading amending Section 11, Landscaping Regulations, and Section 12, Sign Regulations.
- 10) Consider and take action to approve the 2011 Sub-Recipient Agreement/Homeland Security Grant Program from the Governor's Division of Emergency Management for the September 1, 2011 to August 31, 2013 performance period. Attachment ***(Fire Department)***
- 11) Consider and take action to approve a resolution adopting the Lower Rio Grande Valley Regional Interoperability Communication Plan/Standard Operating Procedures (SOP). Attachment ***(Fire Department)***
- 12) Announcement and discussion on approval by the United States Department of Justice of the City's 2011 redistricting plan and procedures for conducting the December 16, 2011, special vacancy election, including the designation of a polling place and candidate qualifying procedures. Attachment ***(City Attorney)***

- 13) Consider and take action to approve and adopt a resolution to order: (1) a Special Election to be held on March 16, 2012 between the hours of 7:00 a.m. and 7:00 p.m., Central Standard Time for the purpose of electing one City Commissioner for the City of Harlingen District 3; (2) appointing the City Secretary as custodian of the records for the District 3 Special Election and Early Voting Clerk; (3) establishment of election precincts; (4) the Special Election Calendar; (5) the creation of the Official Ballot; (6) the use of Voting Machines; (7) a Presiding Judge, Alternate Presiding Judge and Polling Clerks for the Polling Place; (8) Publication and Posting Notice of the Special Election; (9) early voting dates, times and polling place; (10) Early Voting Ballot Board; and (11) Canvassing of votes. Attachment **(City Attorney and City Secretary)**
- 14) Discuss and take action to contract for redistricting legal services to provide new redistricting plans for the City of Harlingen that eliminate the area deannexed by the City on December 1, 2011 under Ordinance No. 11-44 and to be in accordance with 2010 U.S. Census and Federal Voting Rights Act for approval by the Department of Justice. Attachment **(City Attorney)**
- 15) Consider and take action to approve an amendment to the Ordinance (Chapter 51) to establish a rate for the use of Reclaimed Water (effluent) and a rate for Return Water (Reclaimed Water) returned to the Waterworks, meeting or exceeding the definition of Reclaimed Water. Attachment **(Harlingen Waterworks System)**
- 16) Consider and take action to approve a Law Enforcement Accreditation Agreement between the Harlingen Police Department and the Commission on Accreditation for Law Enforcement Agencies, IMC. (CALEA) with the purpose to establish the relationships between, and set the responsibilities of, the parties of the agreement (a) by the Commissions' assessing the agencies' compliance with applicable standards established by the Commission in order for the Commission to determine if the agency is eligible for designation as accredited, and (b) by the agencies maintaining compliance with those standards by which they were accredited. Attachment **(Police Department)**
- 17) Consider and take action to approve or deny a one-year contract between the City of Harlingen and Harlingen Aquatic Team (HAT) for the use of Pendleton Pool and Victor Pool. Applicant: City of Harlingen and John Tucker. Attachment **(Parks and Recreation)**
- 18) Consider and take action to approve an ordinance on first reading to amend the City of Harlingen's Budget for Fiscal Year 2011-12 to authorize the funding for the Harlingen Community Improvement Board's recently approved project for the Veteran's Memorial Project at the Pendleton Park. Attachment **(Finance Department)**

- 19) Consider and take action to approve a Tire Ordinance for the City of Harlingen on first reading pertaining to the state requirements of generators, scrap and used tires and to conform with the Texas Commission Environmental Quality (TECQ) requirements of all tire transporters. Attachment ***(Environmental Services Coordinator)***
- 20) Consider and take action to direct City staff to create a policy that requires only Harlingen Police Officers be hired for mandated security events conducted on city property. Attachment ***(Requested by Commissioner Gus Ruiz and Mayor Pro-Tem Jerry Prepejchal)***
- 21) Consider, discuss and take action to:
  - a) Authorize the City Manager to withdraw all eligible city employees that were hired on or after October 1, 2007 from the City of Harlingen 401© Plan with TCG Advisors and enroll them in the Texas Municipal Retirement System effective January 1, 2012; and
  - b) Approve an ordinance on first reading to participate in the Texas Municipal Retirement System and the Supplemental Death Benefits Funds by the City of Harlingen, Texas and to make current service and prior service contributions to the City's account in the municipal accumulation fund of the Texas Municipal Retirement System at the actuarially determined rate of total employee compensation. ***(Requested by City Commissioner, Gus Ruiz and Mayor Pro-Tem Jerry Prepejchal)***
- 22) Consider and take action to approve an ordinance on first reading for the renaming of Alice Street to Darrell Wayne Shipp Street. Attachment ***(Requested by Commissioner Gus Ruiz and Mayor Pro-Tem Jerry Prepejchal)***
- 23) Discuss and take action to direct staff to revise the City's Logo and Mission Statement to represent an environmentally "greener" community. Attachment ***(Requested by Commissioner Gus Ruiz and Mayor Pro-Tem Jerry Prepejchal)***
- 24) To consider taking action to order that goods-in-transit personal property, as defined and exempted by the Texas Tax Code Section 11.253 shall be subject to taxation by the City of Harlingen for tax year 2012 and all subsequent years; providing for new state law amended definitions of goods-in-transit, bailee, warehouse, and public warehouse operator.
  - a) Public Hearing

b) Consider and take action to approve and adopt an ordinance on first reading on providing that goods-in-transit personal property, as defined and exempted by Texas Tax Code Subsection 11.253 shall be subject to taxation by the City of Harlingen for tax year 2012 and all subsequent years thereafter and providing for new state law amended definitions of goods-in-transit, bailee, warehouse, and public warehouse operator. Attachment **(City Attorney)**

25) Consider and take action to cancel the Wednesday, December 21, 2011 Harlingen City Commission regular meeting and reschedule it for a special meeting on December 27, 2011. Attachment **(City Attorney)**

26) Board Appointments

Discussion and possible action regarding membership on any of the following listed board/entity:

- a. Airport Board
- b. Animal Shelter Advisory Committee (3)
- c. Audit Committee
- d. Civil Service Commission (Mayor) (2)
- e. Community Development Advisory Board (2)
- f. Construction Board of Adjustments (8)
- g. Convention & Visitors Bureau (1)
- h. Development Corporation of Harlingen, Inc.
- i. Downtown Improvement District Board (2)
- j. Golf Course Advisory Board
- k. Harlingen Community Improvement Board (2)
- l. Harlingen Housing Authority Board (0)
- m. Harlingen Finance Corporation
- n. Harlingen Proud Advisory Board (5)
- o. Library Advisory Board (1)
- p. Municipal Auditorium Advisory Board (2)
- q. Museum Advisory Board (3)
- r. Parks Advisory Board
- s. Planning & Zoning Advisory Board
- t. Senior Citizens Advisory Board (1)
- u. Tax Increment Finance Board (1)
- v. Tennis Advisory Board
- w. Utility Board of Trustees
- x. Veterans Advisory Board (2)
- y. Zoning Board of Adjustments (5)

Specifically, appointment or discussion and possible action to include appointment and/or removal of any position subject to appointment or removal by statute, ordinance, or bylaws.

27) Closed/Executive Session to discuss the following items:

- a) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.071 consultation with the City Attorney to seek legal advice regarding **Charles E. Lee v. City of Harlingen, Civil Action No. B-10-CV-233** in the United States District Court for the Southern District of Texas. Attachment (**City Attorney**)
- b) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.071 consultation with the City Attorney to seek legal advice regarding **Hino Electric Holding Company, L.P. d/b/a Hino Electric Power Company v. City of Harlingen, Cause No. 2006-10-5045-E**. Attachment (**City Attorney**)
- c) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code Section 551.071 consultation with the City Attorney to seek legal advice regarding the lease agreement between the City of Harlingen and the Whitewings Baseball Club, LLC for the use of the baseball stadium known as Harlingen Field. Attachment (**City Attorney**)
- d) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.074 personnel matters, to deliberate the annual evaluation, duties and performance of the City Attorney from December 1, 2010 to December 1, 2011. Attachment (**City Attorney**)
- e) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.074 personnel matters, to deliberate the annual evaluation, duties and performance of the Presiding Municipal Court Judge from May 26, 2010 to May 26, 2011. Attachment (**City Manager**)
- f) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Sections 551.087 and 551.071 regarding commercial and financial information from a business prospect with which the City Commission is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives with the business prospect known **Project Green** also known as **Synergy Renewables Harlingen, LLC** and to seek legal advice from the City Attorney regarding this subject. Attachment (**City Manager**)

- 28) Consider and take action to amend and approve the City of Harlingen employment contract for the City Attorney position. Attachment (**City Attorney**)
- 29) Consider and take action to approve an amendment to the Chapter 380 Economic Development Agreement between the City of Harlingen and Synergy Renewables Harlingen, LLC for the development, construction and operation of a waste-to-energy facility. Attachment (**City Manager**)
- 30) Consider and take to authorize the City Manager to enter into a waste supply Agreement between the City of Harlingen and Synergy Renewables Harlingen, LLC. Attachment (**City Manager**)

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
2. The purchase, exchange, lease, or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.
3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.
4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
5. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
6. Deliberations regarding Economic Development negotiations. Section 551.087 of the Texas Open Meetings Act.

I, the undersigned authority, do hereby certify that the above Notice of Meeting is a true and correct copy of said Notice and that I posted said Notice on the bulletin board in the City Hall of the City of Harlingen, a place convenient and readily accessible

to the general public at all times and said Notice was posted on Friday, December 2, 2011 at 8:30 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this 2nd day of December, 2011.

  
Amanda C. Elizondo, City Secretary